

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES RAY CATHY,
Plaintiff,

v.

R. KUZMICZ, et al.,
Defendants.

Case No. [19-cv-05932-PJH](#)

ORDER

Re: Dkt. Nos. 3, 4

Plaintiff, a state prisoner, proceeds with a pro se civil rights complaint under 42 U.S.C. § 1983. Plaintiff's original complaint contained many claims regarding his legal mail and retaliation. The court found that several claims were cognizable and could proceed but several allegations failed to state a claim for relief. Plaintiff was provided an opportunity to either proceed only on the cognizable claims or file an amended complaint and to address the deficiencies of the remaining claims. Plaintiff has filed a motion for clarification and a motion for reconsideration that present additional information.

In these motions, plaintiff seeks to present new arguments and allegations regarding the claims that were deficient. It is clear that plaintiff wishes to amend and proceed with all the claims.

Therefore, the original complaint is dismissed with leave to amend and plaintiff's motions for clarification and reconsideration (Docket Nos. 3, 4) are **DENIED**. Plaintiff must file an amended complaint by **December 23, 2019**, and it must include the caption and civil case number used in this order and the words AMENDED COMPLAINT on the

1 first page.¹ Because an amended complaint completely replaces the original complaint,
2 plaintiff must include in it all the claims he wishes to present including the claims
3 previously found cognizable. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.
4 1992). He may not incorporate material from the original complaint by reference.

5 It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the court
6 informed of any change of address by filing a separate paper with the clerk headed
7 "Notice of Change of Address," and must comply with the court's orders in a timely
8 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute
9 pursuant to Federal Rule of Civil Procedure 41(b).

10 **IT IS SO ORDERED.**

11 Dated: December 2, 2019

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13 /s/ Phyllis J. Hamilton

14 PHYLLIS J. HAMILTON
15 United States District Judge
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27 ¹ Plaintiff is also informed that all claims must be included in the body of the amended
28 complaint, only adding exhibits is insufficient. He must describe the specific actions of
individual defendants and state how they violated his constitutional rights. If plaintiff
wishes to present separate due process claims he must be specific and identify the
claims and present allegations in support.